

## REMARKS

By the present response, claims 31-48 and 50-68 are now in the application. No claims have been added or amended. Reconsideration of the rejection of claims 31-48 and 50-68 and allowance of the same are therefore requested.

Before discussing the individual rejections, some brief comments are in order. All the pending claims in this application recite in one form or another that a state of a cellular telephone is considered busy, regardless of an actual state of the cellular telephone. Applicants' prior response put forth an almost two-page explanation on the concept. In summary, the particular cellular telephone will be considered busy under the claimed circumstances, regardless of whether it is actually busy or not. For example, claim 31 recites "considering a state of a cellular telephone associated with the cellular telephone number as busy, regardless of an actual state of the cellular telephone."

By way of example, suppose that a cellular telephone is on and ready to receive calls. Per its normal operation, a cellular telephone is not in a "busy" state, and normally would not be considered in its busy state. Per the noted language of claim 31, a cellular telephone would be considered busy even though this is not the case. Thus, a phone that is not in use and ready to receive calls is not busy, but will nonetheless be considered as busy. In combination with the divert on busy instructions, an effective method is provided for routing calls.

To date, the Examiner has not provided any reference which teaches or suggests this claimed feature. In the prior Office Action, the Examiner cited to Chambers, yet this reference did not even mention the word "busy" in the cited portions thereof. In the

current Office Action, the Examiner withdraws reliance on Chambers in favor of Kraft et al. ("Kraft"), and specifically column 2, lines 57-63, and Table 1 thereof. The cited portion of Kraft specification is reproduced below:

The setting modes of a portable phone may comprise a considerable amount of user-defined parameters, such as call divert services, light, sound volume, call alert and ringing volume. The most frequently used phone settings are shown in table 1, in which the second column defines a function having a plurality of possible settings which are shown in the fourth column. The first and third columns contain numbers of the functions and phone settings shown in the second and fourth columns. It may be relevant in some connections to include other functions/phone settings and omit some of those shown.

TABLE 1 functions and phone setting options			
No.	function	No.	phone settings
1	call divert services	1.1	divert all voice calls
		1.2	divert when not answered
		1.3	divert when busy
		1.4	divert if not reachable
		1.5	divert all data calls
		1.6	divert all fax calls
		1.7	no diversions/cancel all diversions
2	light	2.1	on
		2.2	off
3	keypad tones	3.1	level 1
		3.2	level 2
		3.3	level 3
		3.4	off
4	warning tones	4.1	on
		4.2	off
5	ringing volume	5.1	level 1
		5.2	level 2
		5.3	level 3
		5.4	level 4
		5.5	level 5
6	welcome note	6.1	standard
		6.2	off
		6.3	mode specific
7	sound volume	7.1	level 1
		7.2	level 2
		7.3	level 3
		7.4	level 4
		7.5	level 5
8	call alert	8.1	ringing

		8.2 ring once
		8.3 beep once
		8.4 silent
9	network	9.1 GSM and DECT
		9.2 GSM
		9.3 DECT
10	hands-free	10.1 hands-free
		10.2 hands-free off

The above portion of Chambers does not relate in any way to treating a cellular telephone as busy regardless of its actual operating state. The word “busy” does not even appear in the first paragraph, and only appears in Table 1 in entry 1.3 as “divert when busy” (emphasis added). As Applicants noted in their prior response, setting up diversion instructions for when a cellular phone is busy is well known. But treating the cellular phone as busy when in fact it is not busy is a feature which is new and non-obvious. Certainly the previously cited Chambers and the now cited Kraft fail to provide such teachings.

Applicants now address the individual rejections.

Claim 31 has been rejected under 35 U.S.C. § 103 as obvious over Schmidt and Horrer in view of Kraft. The rejection is respectfully traversed.

Claim 31 as originally filed and in its current form includes the language: “considering a state of a cellular telephone associated with the cellular telephone number as busy, regardless of an actual state of the cellular telephone.” The Examiner agrees that these limitations are not present in Schmidt or Horrer.<sup>1</sup> Also, as set forth at length above,

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<sup>1</sup> The Examiner specifically states that “the above combinations [of Schmidt and Horrer] doesn’t disclose expressly, considering a state of a cellular telephone associated with the cellular telephone number as busy, regardless of an actual state of the cellular telephone.” The statement incorrectly implies that one or both of the references operates in the claimed manner, but simply fails to “expressly” disclose it. To the contrary, the references fail to “expressly” disclose the claimed methodology because they do not use, teach or suggest it.

this limitation is neither taught nor suggested by Kraft. None of Schmidt, Horrer or Kraft, either alone or in combination, teaches or suggests considering a state of a cellular telephone associated with the cellular telephone number as busy regardless of an actual state of the cellular telephone.

Applicants also traverse the alleged suggestion for the combination of Kraft with either Schmidt or Horrer. It is well settled that suggestion for the combination of references must come from the references themselves or in the general knowledge of the art. The alleged suggestion -- “in order to provide a method enable the phone to automatically change its mode in response to its surroundings, each mode comprising several phone settings”-- does not ring true. Nothing in any of the references teaches or suggests that the proposed modification is beneficial, desirable or even attainable. With all respect, Applicants perceive the alleged suggestion as having been generated from “whole cloth” to support a hindsight combination of references.

Claim 31 is accordingly patentably distinct over the applied art. Withdrawal of the rejection of claim 31 and allowance of the same are therefore requested.

Claims 32-34, and 36-39, which depend from claim 31 (either directly or indirectly), have also been rejected under 35 U.S.C. § 103 as obvious over Schmidt and Horrer in view of Kraft. Dependent claim 35 has been rejected under 35 U.S.C. § 103 as obvious over Schmidt and Horrer in view of Kraft and McKenna. For at least the reasons discussed with respect to claim 31, these dependent claims are likewise patentably distinct over the applied art. Withdrawal of the rejection to claims 32-34 and 36-39 and allowance of the same are therefore respectfully requested.

Claims 40-48 and 50-68 have also been rejected under 35 U.S.C. § 103 as obvious over Schmidt, Horrer and Kraft, and in some cases in further view of McKenna. Each rejection relies upon Kraft for a teaching of setting the state to busy regardless of the actual operating state. As discussed above, Kraft does not teach or suggest these limitations either alone or in combination with the other cited art. For at least the reasons discussed above, withdrawal of the rejection of these claims and allowance of the same are therefore respectfully requested.

In view of the foregoing, the application is now believed to be in proper form for allowance, and a notice to that effect is earnestly solicited.

If a telephone conference would be of value, the Examiner is requested to call the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge/credit any fee deficiencies or overpayments to Deposit Account No. 19-4293 (Order No. 15047.4007).

Respectfully submitted,



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